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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,647	07/02/2003	Burns Philips	50243-0001	4601

7590

09/08/2004

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EXAMINER

COMSTOCK, DAVID C

ART UNIT PAPER NUMBER

3732

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,647

Applicant(s)

PHILIPS ET AL.

Examiner

David Comstock

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

Paragraph 00011, line 2, "fit slide" should be changed to either --fit-- or --slide--, or otherwise corrected, to clearly reflect how the retractor clamps are positioned.

Paragraph 00013, line 10 (Brief Description of the Drawings), incorrectly describes Fig. 3b as "a back side plan view of the rack used in the retractor frame of Figure 3a." This contradicts paragraph 00020--where Figure 3a is described--lines 6-7 (Detailed Description of the Drawings), "The *rack 56* may be *substantially linear as illustrated, or could be curved as shown* in Figures 1, 2 and *3b*" (emphasis added). If the illustrated rack **56** is linear, as this says, then Figure 3b cannot be a back side plan view of the frame of Figure 3a, since Figure 3b is described as being curved.

Appropriate correction is required.

Paragraph 00013, line 13 (Brief Description of the Drawings), after "Fig.", "4a" should be changed to --4b--.

Paragraph 00018, line 4, after "axes **44,46**", --is about 15 degrees,-- should be inserted.

Paragraph 00021, line 1, "has" should be changed to --have--.

Paragraph 00022, lines 2-3, ", illustrated as first arm 76 it is connected" renders the sentence incoherent. Appropriate correction is required.

Paragraph 00027, line 4, after "may", it appears that "act" should be deleted.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **206** (Fig. 17). In addition, the drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **146** (Paragraph 00028, line 4) and **178** (Paragraph 00032, line 1). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-8, 10-13, 15, 16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Santos (3,747,592).

Art Unit: 3732

Santos discloses a retractor comprising a rack 11, a first arm 12, and a second arm 13 (see Fig. 1). The arms are connected to the rack leaving an end of the rack spaced from the connection location (see Fig. 1 and col. 2, lines 18-19). The arms 12, 13 comprise housings 14, 15, respectively, that include a mechanism for adjusting the position of the housings, i.e. a slider mechanism comprising inner passages 16 about the rack. The mechanism further includes means 18, 19, respectively, for fixing the housing at a desired location. The arms 12, 13 can be considered to be the arcuate members and the linear members extending from the ends of the arms can be considered retractor mounts (see Fig. 1). The arms thus include a continuously curved segment spanning their length. The rate of curvature appears to be substantially constant. The arms are concavely oriented toward each other and are coplanar with each other and with the rack 11 (see Figs. 1 and 2).

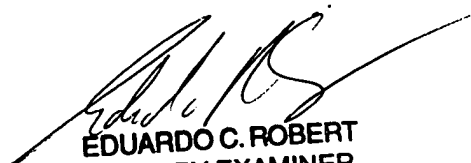
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Comstock whose telephone number is (703) 308-8514.



D. Comstock
06 September 2004



EDUARDO C. ROBERT
PRIMARY EXAMINER